

## **REMARKS**

Applicant has cancelled claims 8 and 12-20. Applicant has amended the claims so that they now define over the prior art, including Stanish (U.S. Pat. No. 4,216,875). The utensil taught by Stanish is extremely limited in its scope and functionality. For example, the utensil of Stanish is limited to having "longitudinally extending straight sides 60." *Col. 4, line 40*. As a result, each of the utensils taught by Stanish, e.g. the "fork" shown in Fig. 6 and the "knife" shown in Fig. 15, are aesthetically displeasing, require more raw materials, and are functionally inferior. In sharp contrast, applicant's utensil does not have longitudinally extending straight sides. Instead, applicant's unique cap and utensil assembly has a utensil with a handle that is substantially thinner than the cup portion of the utensil. *See, e.g., Applicant's Figs. 1, 2, and 4*. Applicant's claimed figuration is more in line with consumer expectations for a proper utensil, uses less raw materials, and is more easily manipulated for better functionality.

In addition, as now claimed, applicant's cup portion has a depth that is greater than its width. As can be seen in Fig. 13, Stanish is limited to having a shallow depth that is not capable of holding substantial material. Applicant's utensil has the increased functionality provided by having the depth be greater than the width.

Further, applicant now claims a utensil having a handle with two portions, the second portion being in a plane substantially perpendicular to the first portion. This configuration allows for the user of the utensil to be able to grip the utensil more easily. It also allows for the utensil to be held in the cap in an orientation whereby the opening of the cup portion is perpendicular to the plane of the top of the cap. *See, e.g., Applicant's Fig. 1*. This unique orientation allows for the cup portion to have a substantial depth without interfering with the substance that is expected to be placed in the associated container to which the cap and utensil assembly may be placed on. In sharp contrast, in prior art cap and utensil assemblies, the opening of a cup portion would be in the same plane as the cap top, and the greater the depth of the cup portion, the more it would interfere with the substance in the associated container, thus limiting the available depth of the cup portion.

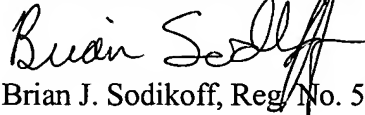
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Applicant has cancelled claims and not added any new claims. Applicant therefore believes that no fee is necessary. However, should a fee be required, the Commissioner is requested and authorized to charge the unpaid amount to Deposit Account 23-0920.

With the above amendments and remarks, this application is considered ready for allowance and Applicant earnestly solicits an early notice of same. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to call the undersigned at the below-listed number.

Respectfully submitted,

**WELSH & KATZ, LTD.**



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